

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:

Preemption of State and Local
Zoning and Land Use Restrictions
On the Siting, Placement and
Construction of Broadcast
Station Transmission Facilities

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) MM Docket No. 97-182
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**DECLARATION OF DEBORA M. RUSSO
IN SUPPORT OF THE COMMENTS OF THE CITY OF PHILADELPHIA**

I, Debora M. Russo, declare as follows:

1. I submit this Declaration in support of the
Comments of the City of Philadelphia.

2. I am a Deputy Managing Director for the City of
Philadelphia and the City's Title II Coordinator for the Americans
with Disabilities Act and the Fair Housing Amendments Act. As a
trial lawyer for the City, I litigated law suits involving the
Fair Housing Amendments Act.

3. In the course of my employment in these positions,
I have become familiar with residential housing and residential
neighborhoods throughout the City. I have attended numerous
community meetings, neighborhood meetings, and zoning hearings on
behalf of the City over the last five years. I have first hand
knowledge of the concerns of residents and civic associations with
respect to the siting of facilities they perceive as undesirable.

These facilities includes homeless shelters, drug rehabilitation houses, and community living arrangements for individuals with mental disabilities placed in residential neighborhoods.

4. I have met with many community groups and groups of concerned citizens in the course of developing and evaluating zoning code provisions, administrative procedures, and regulations to address the siting of wireless personal communications service ("PCS") towers and antennas in Philadelphia. I have first hand knowledge of the responses of ordinary Philadelphia citizens and residents to the erection of PCS transmission towers and facilities near their homes and schools.

5. In my experience, residents object strongly to the siting of homeless shelters, drug rehab houses and similar facilities in their neighborhoods because they see such land uses as threatening to the quality of neighborhood life. The response to telecommunications towers and facilities is similar. The towers and antennas are perceived as ugly in appearance, as "nuisances" that attract graffiti and vandals, and as generally diminishing the aesthetic quality and the quality of life of the neighborhood. They also are perceived, whether justifiably or not, as a risk to health and safety, due to the perceived threat of collapse or falling and a fear of harmful emissions. Residents frequently state that they do not want to live near such facilities and that they believe potential buyers and tenants do not want to live near them. They perceive the presence of the towers as reducing the value of residential property located near

them. In at least one meeting, all of these objections were raised in a particularly vigorous fashion with respect to a cable television system "head-end" tower. I understand that in Philadelphia, new television broadcast towers for digital television are expected to be a thousand to twelve-hundred feet in height. It is clear to me, based on the foregoing experiences, that such large "guyed" towers -- similar in size and structure to a cable "head-end" tower -- will be more offensive to neighborhood residents even than PCS towers, which typically are a maximum of one to three hundred feet in height, are not "guyed," and are of a comparatively unobtrusive "monopole" construction. These huge towers, if they are located in residential neighborhoods, will create all of the same fears and concerns, only more so, in accordance with their larger size. Residents will be even more opposed to living or buying property near them. They will be perceived as having an even greater impact on property values.

6. I am familiar with the provisions of the Philadelphia Zoning and Planning Code, with the various residential, industrial and commercial zoning districts provided by the Code, and with the existence of vacant property that is zoned for industrial uses. I am also familiar with the City's building and housing codes, and with the City's permitting and review process for the Zoning Code and building and housing codes.

7. Under the Philadelphia Zoning and Planning Code, radio and television broadcast towers are permitted uses in "G-1" and "G-2" General Industrial Districts and in "LR" Least

Restricted Industrial Districts. For permitted uses, zoning approval is virtually automatic -- that is, the two types of permit required for new construction, zoning permits and use registration permits, are available, in effect, as a matter of right for permitted uses. No zoning permits are required for modifications of broadcast towers, including addition of equipment and increases in height, as long as the modifications and additions do not result in a change of use. The zoning code imposes no height restrictions on tower structures erected in these districts. Numerous properties in various areas of the City, vacant and occupied, are zoned "G-1," "G-2," or "LR". These properties are located in the area of the Philadelphia International Airport, in Southwest Philadelphia, along Interstate Highway 95, along the Delaware River, and in the northern and northeastern sections of the City, where heavy industrial facilities were once located. These facilities have now gone out of business, leaving industrially zoned land with no active current use. Thus large areas of land, dispersed throughout the City, are zoned "G-1," "G-2," or "LR" and are vacant or not in active use, making them available for broadcast tower construction. The zoning permit process for construction or modification of broadcast towers located in these zones is simple and quickly completed. For such permitted uses, zoning permits typically will be granted in two to three weeks. An accelerated review procedure is available for the payment of a nominal fee, under which a response typically is obtained in three to five

days.

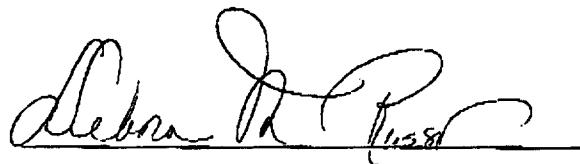
8. Under the Zoning and Planning Code, a property owner aggrieved by an administrative decision in a zoning matter can appeal the decision to the Zoning Board of Appeals within 30 days of the decision. Notice of the appeal, including the date of the hearing before the Board, must be posted on the property for twelve consecutive days before the hearing. These time periods are determined by local and state law and rules of procedure. A lengthy amendment process would be required in order to meet the time lines provided in the rule proposed by the National Association of Broadcasters in its petition initiating this proceeding.

9. In the usual process, building permit review in the City normally takes about three weeks, and if all required information is submitted and satisfactory, a permit will be issued in that period of time. If the applicant's submission is insufficient and additional information is required, or safety issues are raised by the proposed plans, then the time necessary to obtain the permit may be longer. I have read and evaluated the rule proposed by the National Association of Broadcasters. The short time frames provided in the proposed rule do not allow for legitimate investigations, including requests for additional information, that the City may require in order to ensure that a structure is safe. As a practical matter, the rule would eliminate, not expedite, the City's permitting and code enforcement procedures.

10. Public law dictates the notice, appeal, and hearing requirements of the Zoning Code in order to guarantee citizens and property owners an opportunity to defend rights and interests that are affected by land use decisions. By preempting the zoning authority of the City, the proposed rule would likely result in the siting of broadcast towers in residential and other areas with which they are incompatible. This will have a strongly negative effect on the perception of the desirability of these areas as places to live, on the part of potential buyers and tenants, as well as current residents. Under the proposed rule, citizens and owners would be effectively deprived of due process and the right to be heard on matters that vitally affect their interests.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this Declaration was executed on October 30, 1997, at Philadelphia, Pennsylvania.

A handwritten signature in cursive script, appearing to read "Debora M. Russo", is written over a horizontal line.

Debora M. Russo

APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:

Preemption of State and Local
Zoning and Land Use Restrictions
On the Siting, Placement and
Construction of Broadcast
Station Transmission Facilities

MM Docket No. 97-182

**DECLARATION OF BERNARD W. CAMINS, CERTIFIED
REAL ESTATE APPRAISER, IN SUPPORT OF THE
COMMENTS OF THE CITY OF PHILADELPHIA**

I, Bernard W. Camins, declare as follows:

1. I submit this Declaration in support of the
Comments of the City of Philadelphia.

2. I am a Pennsylvania certified general real estate
appraiser, a New Jersey certified general real estate appraiser,
and a real estate broker licensed by the Commonwealth of
Pennsylvania. I have practiced the profession of real estate
appraiser in the City of Philadelphia and the surrounding area and
elsewhere in Pennsylvania for approximately 35 years. A copy of
my resume is attached.

3. I am familiar with telecommunications and radio and
television broadcast transmission towers and similar tower

structures, such as electrical transmission towers, and with their size, configuration, appearance and basic construction. I am familiar with issues relating to the erection of such structures including impact on market values of nearby residential, commercial, and industrial and vacant properties.

4. I am also familiar with issues relating to the impact on the values of nearby residential and business properties of other land uses that are determined by the marketplace for these properties to be undesirable, such as airports, prisons, and sewage treatment plants. I have conducted appraisals to determine the effect on property values of airport avigation easements.

5. I am familiar with the requirements of the City of Philadelphia zoning code. I have resided and practiced the profession of real estate appraiser in the City of Philadelphia and surrounding area for approximately 35 years, and I am familiar with the geography of the City and with a the distribution of property types throughout the City.

6. Market values of real estate are influenced by buyer and renter perception. This is particularly true for the residential property market. Land uses that are highly undesirable from a tenant's and owner-occupant's viewpoint introduce a negative element which may be described as "stigma" and has the effect of adversely impacting market values -- even though the stigma can be the result of perceptions that may or may not have a scientific or factual basis. Common examples include fear of the risk of electromagnetic radiation or structural

collapse in the case of large towers, intolerable noise or odor from facilities like airports or sewage treatment plants, harmful chemical emissions from industrial facilities, and the belief that highly visible industrial and commercial structures will be ugly in appearance. Aesthetic concerns about adverse appearance and visibility as well as health and safety concerns impact the comparative desirability of properties -- hence market values -- to buyers who can simply go elsewhere. This is especially true of many Philadelphia neighborhoods, where the available supply of properties for sale exceeds market demand.

7. Real estate, unlike personal property, cannot be moved and is therefore particularly impacted by the qualities of the surrounding neighborhood. The pressure of land uses that are inharmonious or incompatible with the appearance, aesthetic qualities, and predominant uses in a neighborhood -- e.g. industrial facilities introduced into a predominantly residential area -- therefore have significant impacts on the market and on both short term and long term market values. Market demand and financing availability are both subject to such impacts. For income properties, incompatible uses generally influence rent-generating capability, which impacts market value in the form of reduced annual net operating income, and by impacting capitalization rates and investor yields and financing terms and conditions.

8. The rule proposed by the National Association of Broadcasters ("NAB") would apply to all radio and television

broadcast towers. These structures typically are the tallest tower structures in any urban setting. I understand that in a largely flat-terrain city like Philadelphia, such broadcast towers could be a thousand feet or more in height. Towers this high require three and sometimes more stabilizing cables running from various points on the tower to anchors placed a considerable distance from the tower base. The result generally is an installation that covers acres of ground and visually dominates the streetscape for blocks, if not miles, around the tower. Depending on the neighborhood, and particularly where industrial uses do not already predominate, such a structure is likely to produce a strongly negative impact on appearance and aesthetic qualities, substantially affect the area's desirability for potential buyers, and lead to a diminution in property values.

9. By way of illustration, in the 1980s I conducted appraisals for the federal government valuing compensation to property owners for the acquisition of aviation easements for the Willow Grove Air Station in Willow Grove, Pennsylvania. This project revealed fears of unacceptable aircraft noise and concern regarding risk of air crashes in and around the glide paths proposed by the government. The stigma associated with broadcast towers is based partly on the fear that if a thousand foot tower collapses or falls, it may cause death or injury. It may be scientific fact that the structural integrity of modern broadcast towers, or a design that minimizes the fall zone by causing a failed tower to collapse in on itself, makes this a remote

possibility -- just as the likelihood of an air crash in an airport glide path is statistically remote. The stigmatizing perception remains, however, and this perception generally affects the number of potential buyers for nearby properties and the prices they are willing to pay. The fear of electromagnetic radiation or radio frequency emissions works the same way -- whatever the scientific facts, the perception and belief are real and can create a negative impact on the value of surrounding property. The aesthetic impact of a structure of this magnitude reinforces the effect.

10. The large majority of properties in the City of Philadelphia are residential properties. The market values of these properties can be impacted, and depending on neighborhood, substantially diminished, if unrestricted siting of radio and television broadcast towers is permitted in Philadelphia.

11. I have read and evaluated the rule proposed by the National Association of Broadcasters in its petition initiating this proceeding. By preempting the zoning authority of the City of Philadelphia, it appears that the proposed rule may result in radio and television broadcast towers being located where they would not have been located under existing City zoning regulations. In such cases the rule will be responsible for the reduction in the values of properties in the area that is likely to result.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on October 29, 1997, at Philadelphia, Pennsylvania.

A handwritten signature in dark ink, appearing to read "Bernard W. Camins", is written over a horizontal line.

Bernard W. Camins

QUALIFICATIONS OF BERNARD W. CAMINS

**CAMINS ASSOCIATES
SUITE 808
1315 WALNUT STREET
PHILADELPHIA, PENNSYLVANIA 19107
TELEPHONE: (215)546-3242
FAX NUMBER: (215)546-3879**

PROFESSIONAL MEMBERSHIPS:

- * **American Society of Real Estate Counselors (CRE Designation)**
- * **Appraisal Institute (M.A.I. Designation)**
- * **Senior Real Estate Analyst Designation (SREA Designation)**
- * **American Society of Appraisers (A.S.A. Designation - Senior Real Estate Member)**
- * **American Right of Way Association - Senior member (SR/WA Designation)**
- * **Member, Philadelphia Board of Realtors**
- * **Member, American Real Estate and Urban Economics Association**

EDUCATION:

- * **B.S. - Business Administration (Finance Concentration), University of Scranton**
- * **MBA - Wharton Graduate Division, University of Pennsylvania**

PROFESSIONAL ACTIVITIES:

- * **Former Chairman - State Board of Certified Real Estate Appraisers.**
This Board is responsible for the certification program for appraisers involving federally related transactions as well as tax assessors in Pennsylvania.
- * **Faculty - Appraisal Institute**

**Appraisal Principles and Valuation Procedures
Capitalization Theory and Techniques**

- * Faculty - Society of Real Estate Appraisers
 Course 101 (Fundamentals of Appraising)
 Course 201 (Income Property Valuation)
- * Faculty - Temple University, Real Estate Institute
 Income Property Appraising

In addition, I have served as an instructor or speaker in programs on Condemnation Appraising, Apartment Appraising, Valuation for Property Taxation, Environmentally Contaminated Properties, and other valuation topics.

- * Have spoken before groups on Real Estate Appraising, Consulting, Effective Courtroom Procedures, Leasehold Valuation, Ad Valorem Taxation, Eminent Domain, Effects of Environmental Contamination on Value, Valuation of Income Producing Property Subject To Long Term Leases, Commercial Leases, Understanding Market and Feasibility Studies, Investment Decision Criteria, State Certification, and Special Purpose Property Valuation.
- * Have served as a book reviewer for the Appraisal Institute (American Institute of Real Estate Appraisers and Society of Real Estate Appraisers).
- * Active in professional committees and activities as follows:

Have served as a member of the Board of Directors for several years of the Philadelphia Chapter, American Institute of Real Estate Appraisers and was a member of the Board of Directors of the Philadelphia Chapter, Appraisal Institute.

Member of Board of Directors, Philadelphia Chapter, American Society of Appraisers.

Have served as a representative to the Philadelphia Bar Association Condemnation and Appraisal Committee.

Have served as Chairman of Education Committee, American Right of Way Association, Pennsylvania Chapter #9.

EXPERT TESTIMONY:

Qualified as an expert witness in litigation matters and have served as a consultant to attorneys, governmental and private clients involved in real estate valuation and consulting matters.

SPECIAL AWARDS:

- * Recipient of Professional Recognition Award for 1978 - 1980 by American Institute of Real Estate Appraisers.
- * Elected to membership in 1980 to Lambda Alpha, an honorary professional and land economics fraternity.
- * Recipient of the Society of Real Estate Appraisers, Philadelphia Chapter, Harrison-Winder Memorial Award in 1986 for Advancing the Appraisal Profession.

SPEECHES, SEMINARS AND PANEL ACTIVITIES:

Have spoken before various professional and special groups and participated in seminars on real estate appraising, consulting, and real estate economics. Representative of these groups are:

Philadelphia Bar Association
Delaware Valley Chapter, Society of Real Estate Appraisers
Assessors Association of Pennsylvania
Pennsylvania Department of Transportation
Temple University Law School
Pennsylvania Realtors Association
Philadelphia Industrial Development Corporation
Mortgage Bankers Educational Seminars (1977 - 1989)
Philadelphia Museum of Art - "Investment Estate Planning"
Society of Real Estate Appraisers - "Introduction to Statistics"
Conrail - Field Tax Services - "The Appraisal Process and How to Properly Evaluate An Appraisal"
Board of Revision of Taxes, City of Philadelphia - "Valuation of Special Purpose Properties"
American Society of Appraisers - "Investment Profitability - Measures and Techniques"
Association of Delaware County Real Estate Appraisers - "New Trends in the Measurement of Value - Discounted Cash Flow and Profitability Analysis"

American Right of Way Association - "The Cost Approach as a Valuation
Technique (valuing property involved in partial takings)
Staff Attorneys, Law Department, City of Philadelphia
Right of Way Association, Richmond, Virginia - "Valuation of Leases and
Leasehold Interests" (2-day seminar)
Appraisal Institute, Central Pennsylvania Chapter - "Certification of
Appraisers - Current Status"
Assessors Association of Pennsylvania - "Key to Accurate Assessments:
Collecting Relevant Information"
American Society of Appraisers - International Conference - "Contaminated
Sites from a Government Perspective - Focus on Problems of
Paper Products Site"
Appraisal Institute, Philadelphia Chapter, "Impact of Environmental
Contamination on Property Value"

LICENSES AND CERTIFICATION:

Pennsylvania Certified General Real Estate Appraiser

New Jersey Certified General Real Estate Appraiser

Licensed Real Estate Broker - Commonwealth of Pennsylvania

REPRESENTATIVE APPRAISAL - CONSULTING ASSIGNMENTS

Duane, Morris and Heckscher
Monteverde, Hemphill, Maschmeyer and Obert
White & Williams
Fox, Rothschild, O'Brien and Frankel
Cozen and O'Connor
Hoyle, Morris and Kerr
Community College of Philadelphia
Friends Center City Retirement Community, Inc.
Christian Association of the University of Pennsylvania
Norbertine Fathers
Philadelphia Housing Development Corporation
Boys and Girls Club of Metropolitan Philadelphia
Morlan International
State Farm Life Insurance Company
Presbyterian Ministers Fund
Covenant Life Insurance Company
U.S. Postal Service
State of Delaware
Various Lending Institutions
Chicago Title Insurance Company
Reading Railroad
Intercommunity Action Inc.
Conrail
Lehigh County
Young Women's Christian Association (YWCA)
Federal Government
 Army Corps of Engineers
 Coast Guard
 General Services Administration
 Justice Department
 Bureau of Prisons
 United States Railway Association ((Partner in a valuation study of all
 railroad rights of way of Penn Central Railroad and Reading
 Company in Philadelphia)
Commonwealth of Pennsylvania
 Department of Transportation
 Department of Forests and Waters
 Insurance Department

City of Philadelphia

Redevelopment Authority

Department of Public Property

Department of Commerce

Philadelphia Industrial Development Corporation

Old Philadelphia Development Corporation (Penn's Landing Development)

Philadelphia Parking Authority

Delaware River Port Authority

Philadelphia Belt Line Railroad

M.L. Service Company

State of New York - Department of Transportation

United Cerebral Palsy Association

Diocese of Allentown

Planned Parenthood Association of Southeast Pennsylvania

Sun Pipe Line Company

Texaco Refining Company

Corporation of Veritas

Simpson and Curtin

Pennsylvania Power and Light Company

Philadelphia Electric Company

Metropolitan Edison Company

Maaco

Louisville Airport Improvement Project

American Telephone and Telegraph Company